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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,514	12/09/2003	Paul H. Lundeen	48231-01011	3727
7590 10/07/2005 Holme Roberts & Owen, LLP Suite 1300 90 South Cascade Avenue Colorado Springs, CO 80903			EXAMINER GREENHUT, CHARLES N	
			ART UNIT 3652	PAPER NUMBER

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*KL*

## Office Action Summary

Application No.

10/731,514

Applicant(s)

LUNDEEN, PAUL H.

Examiner

Charles N. Greenhut

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/12/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

**I. Information Disclosure Statement**

1. The information disclosure statement filed 3/12/04 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the image in the GERTMAN reference provided by applicant is indecipherable. It has been placed in the application file, but the information referred to in that reference has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

**II. Drawings**

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “worm gear” in claim 11 and the “hydraulic ram” in claim 12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description

of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### **III. Claim Objections**

1. With respect to claim 2, "in deployed" in line 2 should read "in a deployed".
2. Claims 3 and 4 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Dependent claims must contain all the limitations of the parent claims. Claim 3 includes vehicle-to-base-member angles ranging from about 160 to about 180 degrees, which are outside the range proscribed in parent claim 2 of about 120 to about 160 degrees. Claim 4 includes vehicle-to-base-member angles ranging from about 90 to about 120 degrees, which are outside the range proscribed in parent claim 2 of about 120 to 145 degrees.

### **IV. Claim Rejections - 35 USC § 112**

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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1. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- 1.1. Claim 5 recites the limitation "following the loading of material" in line 1. There is insufficient antecedent basis for this limitation in the claim since material has not been loaded.

- 1.2. Claim 5 improperly attempts to claim both a step of a process and an apparatus at the same time. E.g., "operation means is activated"

#### **V. Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 1 is/are rejected under 35 U.S.C. 102(b) as being anticipated by FONTRIER (US 4,268,199).

- 1.1. With respect to claim 1, FONTRIER discloses a receiving member having a vehicle end and a loading end, movable between a deployed and a transfer position, a connector for rotably connecting, and operation means.
2. Claim(s) 2-6, and 12-14 is/are rejected under 35 U.S.C. 102(b) as anticipated by FONTRIER or, in the alternative, under 35 U.S.C. 103(a) as obvious over FONTRIER.
  - 2.1. With respect to claims 2-4, FONTRIER additionally discloses the loading end including a base member. FONTRIER discloses the angle between the base member and vehicle end (A) as variably obtuse, which encompasses angles from 90 to 180 degrees. Figure 4 provides a specific example of an angle (A) at about 145 degrees, within applicants claimed range. Furthermore, FONTRIER contemplates the angle being variable. It would have been obvious to one of ordinary skill in the art to make the angle within the claimed range in order to accommodate vehicles of a particular size.
  - 2.2. With respect to claim 5, FONTRIER additionally discloses the operation means activated and the material slides with the force of gravity down the base and vehicle (Col. 5 Li 22-24).
  - 2.3. With respect to claim 6, FONTRIER additionally discloses a guide member (3).
  - 2.4. With respect to claim 12, FONTRIER additionally discloses a hydraulic ram.
  - 2.5. With respect to claim 13, FONTRIER additionally discloses a hinge.
  - 2.6. With respect to claim 14, FONTRIER additionally discloses a pivot mechanism.
3. Claim(s) 9 is/are rejected under 35 U.S.C. 102(b) as anticipated by VON DER HEIDE (US 4,892,259).

3.1. With respect to claim 9/1, VON DER HEIDE discloses receiving member having a vehicle end and a loading end, movable between a deployed and a transfer position, a connector for rotably connecting, an operation means, opposite sides extending above and away from the vehicle, and side walls.

**VI. Claim Rejections - 35 USC § 103**

1. Claim(s) 7 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over FONTRIER in view of HENDRICKSON (US 6,877,534).

1.1. With respect to claim 7, FONTRIER fails to teach canvas and a frame. HENDRICKSON teaches canvas and a frame. It would have been obvious to one of ordinary skill in the art to modify FONTRIER with the frame and canvas of HENDRICKSON in order to provide a cost effective support that can be easily replaced and/or cleaned.

2. Claim(s) 8 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over FONTRIER in view of VON DER HEIDE (US 4,892,259).

2.1. With respect to claim 8, FONTRIER fails to teach a flat metal sheet formed in the shape of a tray. VON DER HEIDE teaches a flat metal sheet formed in the shape of a tray. It would have been obvious to one of ordinary skill in the art to modify FONTRIER with the tray of VON DER HEIDE in order to accommodate loose particulate.

3. Claim(s) 9 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over FONTRIER in view of SMITH (US 6,869,265).

- 3.1. With respect to claim 9, FONTRIER fails to teach a reel and cable. SMITH teaches a reel and cable. It would have been obvious to one of ordinary skill in the art to modify FONTRIER with the reel and cable of SMITH to cost-effectively actuate the platform.
4. Claim(s) 11 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over FONTRIER in view of KINGSTON (US 4,407,624)

- 4.1. With respect to claim 11, FONTRIER fails to teach a worm gear. KINGSTON teaches a worm gear. It would have been obvious to one of ordinary skill in the art to modify FONTRIER with the worm gear of KINGSTON in order to selectively position the platform.

## **VII. Conclusion**

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information

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for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG



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**SUPERVISORY PATENT EXAMINER**  
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